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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,329	08/16/2001	Laurent Cohen	488-182	3950

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EXAMINER	
CHAU, COREY P	
ART UNIT	**PAPER NUMBER**
2644	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/931,329	COHEN, LAURENT	
	Examiner	Art Unit	
	Corey P. Chau	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3 and 5-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1, 3, and 5-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1, 2, 3, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No 5212733 to DeVitt et al. (hereafter as DeVitt).

3. Regarding Claim 1, Applicant's admitted prior art discloses an audio mixer wherein effects are frequently changed simultaneously, such as regeneration of the effect and the speed of the effect being used, but does not expressly discloses a trackball which can rotate with at least two degrees of freedom thereby controlling first and second variable; wherein said first variable is speed of an audio effect and is controlled by rotation of said trackball about a first axis and wherein said second variable is regeneration of an audio effect and is controlled by rotation of said trackball about a second axis. However, it would have been obvious to one having ordinary skill in the art to provide a device where two controls are changed simultaneously, such as well-known regeneration of the effect and the speed of the effect in order to permit precision and flexibility in real time dynamic sound control, and permit the sound engineer to achieve complex mixes with a large number of parameters, as taught by DeVitt. DeVitt discloses sound mixing device (i.e. audio mixer) comprising a mouse (i.e.

a mouse comprising a trackball that can rotate with at least two degrees of freedom)(column 6, lines 9-22), wherein the mouse is used to control the location of an icon on the display; a controller that generates multiple parameters control signal that is based upon the location of the icon and is used by the circuit to control multiple parameters affecting an audio output. The states of the multiple parameters can be simultaneously controlled and usefully displayed, permitting precision and flexibility in a real time dynamic sound control and permitting a sound engineer to achieve complex mixes with a large number of parameters (column 1, lines 50-65). Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Applicant's admitted prior art with the teaching of DeVitt to utilize a mouse comprising a trackball that can rotate with at least two degrees of freedom in order to control two variables simultaneously, such as well-known variables regeneration of the effect and the speed of the effect , therefore permitting precision and flexibility in a real time dynamic sound control and permitting a sound engineer to achieve complex mixes with a large number of parameters.

4. All elements of Claim 3 are comprehended by Claim 1. Claim 3 are rejected for the reasons stated above apropos to Claim 1.

5. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No 5212733 to DeVitt as applied to claims 1-4 above, and further in view of U.S. Patent No. 5060272 to Suzuki.

6. Regarding Claim 5, Applicant's admitted prior art as modified discloses an audio mixer comprising a mouse to control two variables simultaneously, such as regeneration of the effect and the speed of the effect being used. Applicant's admitted prior art as modified does not expressly discloses a selector switch for selecting the audio effect to be used. However, it would have been obvious to one having ordinary skill in the art to provide a selector switch in order for sound engineer to selector audio effect such as equalization, and gain, as taught by Suzuki (Fig. 1, reference switches; Fig. 2, reference 21-24 and 28-30).

7. Regarding Claim 6, Applicant's admitted prior art as modified discloses an audio mixer comprising a mouse to control two variables simultaneously, such as regeneration of the effect and the speed of the effect being used. Applicant's admitted prior art as modified does not expressly discloses a channel selector. However, it would have been obvious to one having ordinary skill in the art to provide a channel selector in order for sound engineer to adjust the audio effect on a desired channel, as taught by Suzuki (Fig 1, reference switches; Fig. 2, reference 11-18)

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of U.S. Patent No 5212733 to DeVitt as applied to claims 1-4 above, and further in view of U.S. Patent No. 5060272 to Suzuki and U.S. Patent No. 4993073 to Sparkes.

9. Regarding Claim 7, Applicant's admitted prior art as modified discloses an audio mixer comprising a mouse to control two variables simultaneously, such as regeneration

of the effect and the speed of the effect being used. Applicant's admitted prior art as modified does not expressly discloses a potentiometer. However it is well known in the art that faders or sliders are incorporated on an audio mixing console, which is a potentiometer controlled, as taught by Sparkes (column 1, lines 30-65; column 6, 37-65). Therefore it would have been obvious to one having ordinary skill in the art to modify Applicant's admitted prior art with the teaching of Sparkes to utilize well-known faders or sliders incorporated on an audio mixing console, which is potentiometer controlled, wherein the potentiometer controlled is by a linearly displaceable operating member to determine the level of the signal and thus the ultimate volume of that component of the signal in the eventual output, therefore providing the sound engineer with flexible control of the audio mixer in any range or degree of change in order to obtain the desired mix of input signals in the output.

10. All elements of Claim 8 are comprehended by Claim 5. Claim 8 is rejected for the reason state above. The switches of Suzuki turn on/off the audio effect (column 3, lines 32-47).

Response to Arguments

11. Applicant's arguments filed 3/02/2005 have been fully considered but they are not persuasive.

12. With respect to Applicant's argument on 5, stating that "the Applicant respectfully but strenuously traverses any assertion that the present invention is somehow made obvious, in whole or in part, by the statement "In particular, there are effects which are

frequency changed simultaneously, such as regeneration of the effect and the speed of the effect being used" (present application, page 1, penultimate sentence). Any such use of this statement can only be justified by the wisdom of hindsight after review of the present disclosure, which is clearly improper", has been noted. However, the Examiner respectfully disagrees. Applicant has admitted on record that "In the prior art, it is known to use audio mixers in order to generate any number of desired audio effects. However, these audio mixers have a large number of dials and switches so that the operation of the controls has not been intuitive. In particular, there are effects which are frequently changed simultaneously, such as regeneration of the effect and the speed of the effect being used", therefore it can be used as prior art.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P. Chau whose telephone number is (571)272-7514. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on (571)272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 11, 2005

VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
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